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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON**

DONALD THORNTON,) Case No.
)
Plaintiff,) COMPLAINT FOR VIOLATION
) OF FEDERAL FAIR DEBT
vs.) COLLECTION PRACTICES ACT
) AND INVASION OF PRIVACY
CAPITAL MANAGEMENT)	
SERVICES, LP,)
)
Defendant.)

I. NATURE OF ACTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA") and of the Revised Code of Washington, Chapter 19.16, both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices. Plaintiff further alleges a claim for invasion of privacy by intrusion, ancillary to Defendant's collection efforts.

COMPLAINT FOR VIOLATIONS OF THE FAIR
DEBT COLLECTION PRACTICES ACT-5

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2
3 **II. JURISDICTION**

4 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).

5 **III. PARTIES**
6

7 3. Plaintiff, Donald Thornton, is a natural person residing in the State of
8 Washington, County of Spokane, and City of Spokane.

9 4. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. §
10 1692a(3), and a “debtor” as defined by RCW § 19.16.100(11).
11

12 5. At all relevant times herein, Defendant, Capital Management Services,
13 LP, (“Defendant”) was a company engaged, by use of the mails and telephone, in
14 the business of attempting to collect a “debt” from Plaintiff, as defined by 15
15 U.S.C. §1692a(5).
16
17

18 6. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. §
19 1692a(6), and a “licensee,” as defined by RCW § 19.16.100(9).
20

21 **IV. FACTUAL ALLEGATIONS**

22 7. At various and multiple times prior to the filing of the instant complaint,
23 including within the one year preceding the filing of this complaint, Defendant
24 contacted Plaintiff in an attempt to collect an alleged outstanding debt.
25
26
27

1 Defendant's conduct violated the FDCPA and RCW § 19.16 in multiple ways,
 2 including but not limited to:
 3

- 4 a. Communicating with Plaintiff at times or places which were known or
 5 should have been known to be inconvenient for Plaintiff, including
 6 placing a telephone call to Plaintiff before 8:00 am local time for
 7 Plaintiff (§ 1692c(a)(1));
- 8 b. Causing Plaintiffs telephone to ring repeatedly or continuously with
 9 intent to harass, annoy or abuse Plaintiff, including calling Plaintiff back
 10 immediately after Plaintiff had ended a conversation by hanging up (§
 11 1692d(5));
- 12 c. Falsely representing or implying that Plaintiff had committed a crime or
 13 other conduct, in order to disgrace Plaintiff (§ 1692e(7));
- 14 d. Failing to disclose Defendants true corporate or business name in a
 15 telephone call to Plaintiff, including occasionally referring to Defendant
 16 as Vision (§ 1692d(6));
- 17 e. Threatening to take an action against Plaintiff that cannot be legally
 18 taken or that was not actually intended to be taken, including
 19 threatening to sue Plaintiff for a debt without actually having the intent
 20 to do so or knowledge of the creditors intent to do so (§ 1692e(5));
- 21 f. Threatening to take an action against Plaintiff that cannot be legally
 22 taken or that was not actually intended to be taken, including
 23 threatening that the government will be involved (§ 1692e(5)).

24 9. Defendant's aforementioned activities, set out in paragraph 8, also
 25 constitute an intentional intrusion into Plaintiff's private places and into private
 26 matters of Plaintiff's life, conducted in a manner highly offensive to a reasonable
 27 person. With respect to the setting that was the target of Defendant's intrusions,
 28 Plaintiff had a subjective expectation of privacy that was objectively reasonable
 under the circumstances.

1 10. As a result of Defendant's behavior, detailed above, Plaintiff
2 suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation,
3 embarrassment, mental anguish and emotional distress.
4

5 **COUNT I: VIOLATION OF FAIR DEBT**
6 **COLLECTION PRACTICES ACT**
7

8 11. Plaintiff reincorporates by reference all of the preceding paragraphs.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff respectfully prays that judgment be entered
11 against the Defendant for the following:
12

- 13 A. Declaratory judgment that Defendant's conduct
14 violated the FDCPA;
15 B. Actual damages;
16 C. Statutory damages;
17 D. Costs and reasonable attorney's fees; and,
18 E. For such other and further relief as may be just and proper.
19

20 **COUNT II: VIOLATION OF WASHINGTON COLLECTION AGENCY**
21 **ACT, WHICH IS A PER SE VIOLATION OF THE WASHINGTON**
22 **CONSUMER PROTECTION ACT**
23

24 12. Plaintiff reincorporates by reference all of the preceding paragraphs.
25
26
27

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- B. Actual damages;
- C. Discretionary Treble Damages;
- D. Costs and reasonable attorney's fees,
- F. For such other and further relief as may be just and proper.

COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION

13. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Actual damages
- B. Punitive Damages; and,
- C. For such other and further relief as may be just and proper.

Respectfully submitted this 7th day of January, 2009.

s/Jon N. Robbins
Jon N. Robbins
WEISBERG & MEYERS, LLC
Attorney for Plaintiff